

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 11-12269  
\_\_\_\_\_

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT MAY 17, 2012 JOHN LEY CLERK
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D. C. Docket No. 8:05-cv-02158-JSM-MAP

SOUTHERN FAMILY INSURANCE COMPANY,

Plaintiff-Appellee,

versus

UNITED STATES OF AMERICA,

Defendant-Appellant.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Middle District of Florida  
\_\_\_\_\_

(May 17, 2012)

Before HULL, ANDERSON and HIGGINBOTHAM,\* Circuit Judges.

PER CURIAM:

\_\_\_\_\_  
\*Honorable Patrick E. Higginbotham, United States Circuit Judge for the Fifth Circuit, sitting by designation.

We have had the benefit of oral argument in this case, and have carefully considered the briefs of the parties, the relevant cases, and relevant portions of the record. After a bench trial, the district court made findings of fact with respect to the five factors set out in United States v. Chicago, Burlington & Quincy R. Co., 412 U.S. 401, 93 S.Ct. 2169 (1973), including the ultimate finding that the intent and motive of the transferor of the funds was a contribution to capital to benefit the Florida insurance market, i.e., to encourage private insurance companies to invest their capital in the Florida insurance market. The record contains ample evidence to support these findings, including the testimony of virtually every witness, most of whom were extremely knowledgeable not only with the relevant legal principles, but also with the insurance industry. Even if there were some minimal component which might be deemed payment for services, the same was negligible, and the dominant intent and motivation was clearly the benefit to the public at large as found by the district court.

We cannot conclude that the district court's findings of fact were clearly erroneous.

AFFIRMED.